The Interim

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A monthly newsletter of the Montana Legislative Branch

In This Issue

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The Interim, along with up-to-date information about interim committees, is also available on the Legislative Branch website at leg.mt.gov.

New Online: Legislators can now fill out and print bill draft requests at their own convenience using an online form available at leg.mt.gov under “For Legislators.” Completed requests should be submitted to the Legislative Services Division.

Last Issue: This is the final issue of this newsletter for the 2009-2010 interim. We will resume publication next June, following the 2011 legislative session.

At party caucuses on Nov. 17, legislators selected their leadership for the 2011 session. From left to right are Sen. Jim Peterson, Senate president; Sen. Jeff Essmann, Senate majority leader; Rep. Mike Milburn, speaker of the House; and Rep. Tom McGillvray, House majority leader.

Caucuses Elect Leadership for 2011 Session: Peterson Senate President, Milburn Speaker

At separate party caucuses held Nov. 17, Democrat and Republican legislators-elect in the House and Senate chose their leadership for the 2011 session. The full membership of the House and Senate must confirm the selections at the outset of the session, which convenes at noon Jan. 3.

Republicans, who hold a majority in both chambers, chose Sen. Jim Peterson, R-Buffalo to serve as president of the Senate, while Rep. Mike Milburn, R-Cascade, was named speaker of the House.

Other officers elected by their caucuses were:

HOUSE

- Majority Leader: Rep. Tom McGillvray, R-Billings
- Speaker Pro Tem: Rep. Janna Taylor, R-Dayton
- Minority Leader: Rep. Jon Sesso, D-Butte
- Caucus Leader: Rep. Betsy Hands, D-Missoula
- Republican Whips: Rep. Gerald Bennett, Libby; Rep. Keith Regier, Kalispell; Rep. Cary Smith, Billings; and Rep. Wendy Warburton, Havre
- Democratic Whips: Rep. Chuck Hunter, Helena; and Rep. Margaret MacDonald, Billings

SENATE

- Majority Leader: Sen. Jeff Essmann, R-Billings
- President Pro Tem: Sen. Bruce Tutvedt, R-Kalispell

- Minority Leader: Sen. Carol Williams, D-Missoula
- Republican Whips: Sen. Taylor Brown, Huntley; and Sen. Chas Vincent, Libby
- Democratic Whip: Sen. Kim Gillan, Billings
- Committee on Committees: Sens. Joe Balyeat, R-Bozeman; John Brenden, R-Scobey; Dave Lewis, R-Helena; Rick Ripley, R-Wolf Creek; Jim Shockley, R-Victor; and Donald Steinbeisser, R-Sidney





Also elected to leadership were, top to bottom, left to right: Sen. Carol Williams, Senate minority leader; Rep. Jon Sesso, House minority leader; Rep. Betsy Hands, House minority caucus leader; Sen. Bruce Tutvedt, Senate president pro tempore; and Rep. Janna Taylor, House speaker pro tempore.

Housing Options for Legislators Available from Legislative Services Division Staff

The Legislative Services Division has made it as easy as possible for legislators to find housing for the 2011 session. Staff has developed a database compiling information about available housing.

Housing options range from furnished sleeping rooms to single-family residences. Rent prices are set by owners of the properties.

Many legislators choose to share housing. Other factors that may affect lodging requirements are the amount of time a legislator expects to spend away from the Capitol and whether visitors from home are expected.

Donna Fletcher, LSD receptionist, will provide legislators with an information packet that includes housing options, a map of Helena, a local Chamber of Commerce booklet, a session housing request form, the Helena area transit service schedule, and other pertinent information. To request a packet, contact Fletcher at 406-444-3064 or dfletcher@mt.gov.

Housing is one of the more difficult and important details to consider when making the transition to life in Helena as a legislator. The earlier a legislator begins considering housing options, the greater the likelihood of finding acceptable accommodations.

Legislative Leadership Announces Names of New Committee Chairs

The newly elected leadership of the Montana House and Senate has released the names of lawmakers who will serve as presiding officers of 2011 session committees.

SENATE

Sen. John Brenden, chair of the Senate Committee on Committees, announced the following presiding officer appointments in the Senate:

Committee	Presiding Officer
Finance and Claims	Dave Lewis, R-Helena
Business and Labor	Joe Balyeat, R-Bozeman
Judiciary	Jim Shockley, R-Victor
State Administration	Jim Shockley, R-Victor
Taxation	Bruce Tutvedt, R-Kalispell
Education, Cultural Resources	Rick Ripley, R-Wolf Creek
Public Health	Terry Murphy, R-Cardwell
Natural Resources	Debby Barrett, R-Dillon
Agriculture, Livestock, Irrigation	Don Steinbeisser, R-Sidney
Highways and Transportation	Llew Jones, R-Conrad
Fish and Game	John Brenden, R-Scobey
Local Government	Jon Sonju, R-Kalispell
Energy	Alan Olson, R-Roundup
Rules	Jeff Essmann, R-Billings

Legislative Administration ... Taylor Brown, R-Huntley

Ethics ... not yet named

HOUSE

Rep. Mike Milburn, speaker-elect for the House of Representatives, along with Rep. Tom McGillvray, majority leader-elect, announced the following presiding officer appointments for House committees:

Committee	**Presiding Officer**
Appropriations	Walter McNutt, R-Sidney
Judiciary	Ken Peterson, R-Billings
Taxation	Mark Blasdel, R-Somers
Business and Labor	Elsie Arntzen, R-Billings
State Administration	Pat Ingraham, R-Thompson Falls
Education	Scott Reichner, R-Bigfork
Natural Resources	Gordon Hendrick, R-Superior
Federal Relations, Energy, and Telecommunications	Harry Klock, R-Harlowton
Transportation	Gordon Vance, R-Bozeman
Agriculture	Krayton Kerns, R-Laurel
Human Services	David Howard, R-Park City
Fish, Wildlife, and Parks	Ted Washburn, R-Bozeman
Local Government	Gary MacLaren, R-Victor
Ethics	Keith Regier, R-Kalispell
Rules	Michael More, R-Gallatin Gateway

A full list of members of the session committees is expected to be released soon.

Legislative Branch Hires Two New Attorneys, One New Fiscal Analyst

The Legal Services Office of the Legislative Services Division welcomes two new attorneys to its staff, Julianne Burkhardt and Dan Whyte. They replace Lisa Mecklenberg Jackson, who moved to Missoula with her family, and Jeremy Gersovitz, who returned to the courtroom with the Lewis and Clark County Attorney's Office.

"We regret losing experienced staff," said Susan Byorth Fox, executive director of LSD, "but we welcome the new staff who have excellent experience in private practice and state government."

Julianne Burkhardt

Burkhardt graduated from Sweet Briar College in Virginia in 1987 and received her law degree in 1994 from the University of Montana. She was previously a partner with the Helena law firm of Gough, Shanahan, Johnson & Waterman. She will be the staff attorney for the Public Health, Welfare, and Safety Committee in the Montana Senate.

Dan Whyte

Whyte graduated from Carroll College in 1985 and received his law degree in 1988 from the University of Idaho. He comes to the legislative branch from the Keller Law Firm in Helena. He will be the staff attorney for the Education Committee in the Montana House of Representatives.

Quinn Holzer

The Legislative Fiscal Division has hired Quinn Holzer as a fiscal analyst. He replaces Matt Stayner, who has taken a job with the Oregon Legislature.

Holzer has bachelor's and master's degrees in agricultural fields from Montana State University. He received a master's degree in business administration from the University of Montana in 2009. He comes to the legislative branch from the Bank of the Rockies, where he has served as a mortgage loan representative. He interned as a student lobbyist during the 1997 session.

Legislative Audit Committee Reviews Results of 10 Audits of State Operations

The Legislative Audit Committee held hearings Nov. 15-16 on 10 audits of state programs and operations. These audits found:

- Early implementation by the Department of Administration of a new accounting principle caused errors in state accounting records, and internal controls of contractors funded by federal grants (including American Recovery and Reinvestment Act fund) are deficient.
- Office of the Secretary of State has retained $2.6 million in excess profits. The office did not concur with a

recommendation to return these profits to purchasers of the offices services.

- Food and Consumer Safety Section of the Department of Public Health and Human Services has not ensured annual inspections of all retail food establishments.
- State Auditor's Office should collect all security fees required of investment companies.
- Department of Revenue does not notify the Secretary of State of corporate license tax nonfilers and delinquent filers.
- Office of the Commissioner of Political Practices did not record lobbyist license revenue correctly.
- Department of Natural Resources and Conservation has not properly compensated some Trust Land beneficiaries for use of trust lands or for cabin lease sites, paid fire expenditures not approved by authorized staff, and increased meal allowances for general fire activity contrary to state law.
- Office of the Governor and Lieutenant Governor did not comply with federal requirements to monitor internal controls of federal American Reinvestment and Recovery Act State Fiscal Stabilization Funds.

In addition, auditors reported how these agencies have responded to past audits:

- Montana State Fund has implemented five recommendations, but has not prepared or distributed executive compensation disclosures.
- Because various agencies and stakeholders do not agree with a 2009 audit of Statewide Radio Communications Interoperability, recommendations have not been implemented and the system remains at risk of failure. This statewide system is meant to link police, firefighters, and other public safety officials.
- Department of Environmental Quality is implementing one recommendation but has not implemented another regarding establishment of details within a disaster recovery plan for its Consolidated Environmental Data Access and Retrieval System. The department did not concur with the recommendation.

In other business:

- Montana Department of Transportation Director Jim Lynch updated committee members on the agency's progress toward better control of state fuel cards, which was the subject of a June audit. Card limits have been instituted, including a $60 limit for a single fillup in most state vehicles. Lynch also said a further review found that in only one instance was diesel fuel improperly purchased, due to an employee mistake. And Lynch said 59 fuel purchases found by the audit where the fuel purchase exceeded the tank size might be due to variations in gas station pumps, agencies that fill up extra gas cans for remote work, or tank sizes different than what is published.

  In addition, Lynch said one employee was recently found "gaming" the fuel card system and faces court charges. That employee no longer works for MDT.
- The Legislative Audit Division received 26 calls to its fraud hotline and 51 reports of alleged penal violations last fiscal year.

The committee will meet again in December to consider 10 more audits. Audit summaries and full text are available at leg.mt.gov/audit. Committee members are:

- Chairman Mitch Tropila (D-Great Falls)
- Vice-chairwoman Dee Brown (R-Hungry Horse)
- Sen. Greg Barkus (R-Kalispell)
- Sen. John Brenden (R-Scobey)
- Sen. Taylor Brown (R-Huntley)
- Sen. Mike Cooney (D-Helena)
- Rep. Betsy Hands (D-Helena)
- Sen. Cliff Larsen (D-Missoula)
- Rep. Scott Mendenhall (D-Clancy)
- Rep. Carolyn Pease-Lopez (D-Billings)
- Rep. Wayne Stahl (R-Saco)
- Rep. Bill Wilson (D-Great Falls).

The committee will be seeking at least five new members during the 2011 session, as Senators Barkus and Cooney, and Representatives Brown, Mendenhall and Wilson will not be returning for the 2011 session due to term limits.

The Legislative Audit Division provides independent, objective, fact-based evaluations of the stewardship, performance, and cost of government policies, programs, and operations. For more information, call 406-444-3122 or go to leg.mt.gov/audit. To report improper acts committed by state agencies, departments, or employees, call the fraud hotline at 800-222-4446 or 406-444-4446 (in Helena).

Legislative Council Authorizes Technology Proposal, Adopts MCA Pricing Schedule

The Legislative Council met Nov. 16 to finish work on several budget items, including authorizing a long-range information technology proposal for consideration by the Long-Range Planning Subcommittee. The council also adopted pricing schedules for the proceedings of the 2011 Legislature, the Montana Code Annotated, and other legislative publications; and the pay matrix for session employees.

CTA Architects presented the final report on the legislative space study. Following the report, the council requested the drafting of a resolution (LC 929) directing the next Legislative Council to continue work on the legislative space proposals and to actively engage its long-range planning role. The National Conference of State Legislatures provided information on how other states deal with building space for the legislature, governor, and other constitutional officers.

The council adopted one final rule change to be presented to the rules committees on Dec. 6. Council staff presented ideas for additional legislative training in the first two weeks of session, and the members encouraged staff to work with the new leadership to develop a training schedule.

The council also approved drafting of a bill allowing audio minutes to be the official minutes of public meetings (LC 930) and two bill drafts revising interim committee statutes. LC 343 would change the interim committee laws that were requested by the Economic Affairs Interim Committee and the Law and Justice Interim Committee related to oversight of the Montana State Fund and Office of Public Defender, respectively. LC 913 would authorize the Legislative Council to assign certain state entities to other interim committees for monitoring purposes and would specify appointing a joint budget subcommittee member to each interim committee.

The council redistributed NCSL and Council of State Governments funds among the four caucuses and delegated responsibility for approving expenditure of the funds through the end of the current biennium to the new leadership. The council also delegated choosing legislative interns to the new leadership.

For more information about the council or to view agendas, minutes, and meeting materials, visit the Legislative Council website at leg.mt.gov/legcouncil, or contact Susan Byorth Fox, executive director, at 406-444-3066 or sfox@mt.gov.

Departing Council Members

Sen. Carol Williams, vice chair of the Legislative Council, presented Sen. Robert Story, Rep. Bob Bergren, and Rep. Dennis Himmelberger, chair of the council, with plaques to recognize them for their years of service in the Legislature and on the Legislative Council.

Staff joined the members in celebrating with cake and watching the DVD "Training Up," which features former and current legislators, including Story, providing valuable insights for the next Legislature. The DVD was produced by legislative staff, including Joe Kolman, Rachel Weiss, K'Lynn Sloan Harris, and Lisa Mecklenberg Jackson, in conjunction with HCTV's Stephen Maly and Kirsten Faubion.

LFC Develops Recommendations for Budget Standing Committees

The Legislative Finance Committee met Nov. 16. Meeting reports are available on the Legislative Fiscal Division website at leg.mt.gov/fiscal. For more information, contact Amy Carlson, division director, at acarlson@mt.gov or 406-444-2986. Key topics from the meeting are discussed below.

Before each session, the LFC is required to make recommendations to the House Appropriations and Senate Finance and Claims committees regarding the activities of the joint appropriations subcommittees and procedural issues related to developing the state budget. Over a period of time, a variety of issues have lent themselves to this discussion. The LFC discussed and approved seven items this interim that will be recommendations to those committees. From the perspective of the LFD staff and its ability to efficiently and effectively assist the Legislature in the formulation of the state budget, the importance of these recommendations and the ultimate acceptance by the appropriations committee leadership and the joint appropriations subcommittees is paramount.

Although these recommendations provide initial direction to the subcommittees and establish a starting point for the subcommittee budget deliberations, the subcommittees are not prevented from making adjustments as they progress. The recommendations are listed in the "Global Issues" report for the Nov. 16 meeting on the committee website. For more information, contact Jon Moe at jonmoe@mt.gov or 406-444-4581.

Managed Care Project

Anna Whiting Sorrell, director of the Department of Public Health and Human Services (DPHHS), presented a report on a proposed Medicaid managed-care demonstration project for Cascade, Lewis and Clark, Teton, Chouteau, and Judith Basin counties. DPHHS expects to contract with one company to manage all Medicaid and Healthy Montana Kids (HMK) services in the five-county area, including developmental disability, nursing home, mental health, and personal care services for all Medicaid and HMK enrollees (about 20,000 people).

Whiting Sorrell said that DPHHS will issue a request for proposals in early 2011. The successful bidder will be required to provide all Medicaid and HMK services. DPHHS has established a target of 10 percent savings. The contractor will accept full risk for any cost overruns.

DPHHS will need federal approval to implement the demonstration project because the pilot is limited to a specific geographic area of the state and limits the participants' choice of providers. A concept paper describing the proposal is on the DPHHS website at dphhs.mt.gov. For more information, contact Lois Steinbeck at lsteinbeck@mt.gov or 406-444-5391.

Montana State Fund Budget

The Board of Directors of the Montana State Fund has management and control responsibilities of the State Fund. As such, MSF's annual budget is not considered by the Legislature in the appropriations process. However, statute requires that MSF present the board-approved budgets for the Old Fund and New Fund to the Legislative Finance Committee by Oct. 1 for its review. While the LFC reviews the MSF 2011 budget, it has no authority to require MSF to change its budget unless the Legislature amends statute.

At the November LFC meeting, members of the LFC and the Economic Affairs Interim Committee reviewed a Legislative Fiscal Division report on the analysis of the board-approved budget for FY 2011. The full report can be found at: http://leg.mt.gov/content/Publications/fiscal/interim/financemty_nov2010/msf_budget_analysis.pdf. The report discussed:

- budgetary risks associated with the funds related to the revenues collected in a given year needing to pay for the costs of workers' injuries for the next 50 to 60 years;
- factors resulting in the need for additional reserves, including increasing medical and administrative costs;
- increased loss reserves in the New Fund in FY 2010 of $13.8 million, with projected increases of $9 million in FY 2011;
- achievement of reserve-to-equity targets for the first time since at least FY 2003;
- decreases in loss costs average 6.4 percent;
- manual rates decrease an average 4 percent included in the loss cost multiplier;
- merit rate adjustments of 2.5 percent for employees and 4 percent for the CEO and changes to the CEO incentive payments methodology that could result in incentive payments to the CEO as high as $94,380 above the base salary of $252,000;
- increased general fund transfers of $1.6 million needed for the Old Fund in the 2013 biennium for a total of $18.1 million in the next biennium;
- the reasonableness of discounting Old Fund liabilities; and
- Economic Affairs Interim Committee bill drafts.

For additional information, contact Kris Wilkinson at kwilkinson@mt.gov or 406-444-2722.

Interim Committee Adopts Initial Estimates of Revenue Available During 2011 Session

The Revenue and Transportation Interim Committee met Nov. 19 to adopt the initial revenue estimates for the 2011 legislative session – an important first step in developing a balanced budget. Section 5-5-227, MCA, provides, in part:

> (2) The [revenue and transportation interim] committee must have prepared by December 1 for introduction during each regular session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation.
>
> (3) The committee's estimate, as introduced in the legislature, constitutes the legislature's current revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the legislature's estimates and the assumptions underlying the estimates will be used by all agencies with responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

The committee estimates will be contained in House Joint Resolution 2.

State economists helped the committee gain a sense of global, national, and state economic trends that may have an effect on revenue estimates. Paul Polzin, with the Bureau of Business and Economic Research, University of Montana, and Barbara Wagoner, an economist with the state Department of Labor and Industry, provided details on the state and national economies.

The economic recession ended June 2009, and personal income in both Montana and the nation has been growing slowly since the second quarter of 2009. But income growth has not resulted in job growth, because employment increases typically lag behind and economic recovery. Other factors that affect new hiring include increases in labor productivity, structural unemployment, and business uncertainty about the strength of the recovery. In addition, the housing market correction, anemic consumer confidence, and a struggling global economy are affecting economic growth in Montana and the nation.

Myles Watts, Montana State University, discussed the agricultural outlook of the state, and David Pursell, of Tudor, Pickering, Holt and Co, an energy investment company, discussed trends in oil and natural gas production and prices.

The Legislative Fiscal Division and the governor's budget office each develop biennium revenue estimates for the general fund and certain nongeneral fund revenue sources. The difference in total general fund revenue estimates for fiscal years 2011-2013 between the two offices was less than one percent. However, David Ewer, the governor's budget director, told the committee that each state agency's estimates are probably too low.

As a starting point for the Legislature, the committee unanimously decided to adopt the LFD's revenue estimates without change. Those estimates are based on the continuation of state law and an extension of federal tax cuts enacted in 2001 and 2003.

Total general fund revenue for fiscal years 2011 (the last year of the current biennium), 2012, and 2013 are estimated to be $1,672.133 million, $1,753.767 million, and $1,825.963 million, respectively. As more information becomes available, these estimates are likely to change as the Legislature considers HJR 2 during the 2011 session.

Economic Impact Statements, Rule Delay

Last September, the committee reviewed proposed rules related to MAR Notice 42-2-485 and MAR Notice 42-2-846. Because of taxpayer concern about the proposed rules, the Department of Revenue told the committee that it would prepare economic impact statements on the rules. The committee reviewed the economic impact statements and analyses of the statements at the November meeting.

The proposed rules under MAR Notice 42-2-845 would change the apportionment of income to Montana by multistate corporations that provide telecommunications services. The department said that the rules are based on a model rule developed by the Multistate Tax Commission.

Although Lee Heiman, committee staff attorney, said that the economic impact statement on the proposed telecommunications rules dealt with all the required items under 2-4-405, MCA, committee members believed they had not had enough time to evaluate how the rules would affect the taxation of telecommunications services entities. By a vote of 7-5, the committee decided to object to the proposed rule under the provisions of 2-4-305, MCA. Because the committee will not meet again this interim, the effect of the objection is to suspend adoption of the rules until late April 2011.

The proposed rules under MAR Notice 42-2-846 would adopt the 2009 Western States Association of Tax Administrators – Committee on Centrally Assessed Properties appraisal handbook as the reference and overall appraisal guide and the NCUVS (National Conference of Unit Valuation States) standards when conducting unit valuations of centrally assessed property.

The rules also would provide definitions of "goodwill" and "intangible personal property." The new rules also deal with reporting requirements for centrally assessed companies and "default" deductions for intangible personal property for the purposes of the property tax exemption of intangible personal property under 15-6-218, MCA. After reviewing the economic impact statement and staff analysis of the statement, the committee considered a motion to object to the rule. On a tie vote, the motion failed.

Meeting materials, including a Department of Revenue report on tax havens, is available at leg.mt.gov/rtic. For more information about the Revenue and Transportation Interim Committee, contact Jeff Martin at jmartin@mt.gov or 406-444-3595.

The Back Page

The Other Election – Voters Take on Ballot Measures

By Jeff Martin
Legislative Research Analyst

In addition to voting for governors, state legislators, and members of Congress, voters in many states took on a slew of initiatives and constitutional amendments in November. According to Ballotpedia.org, there were 160 ballot measures nationwide.[1] Of those, 103 passed and 57 were defeated. There were 44 measures, or 27.5 percent of the total, dealing with taxes and budgeting.[2] This article summarizes a few tax and budget initiatives in California, Colorado, Massachusetts, and Washington.

CA Loosens, Tightens Restrictions on Legislature

Apparently frustrated by the state Legislature's failure to pass a budget on time, California voters approved a constitutional amendment (Proposition 25) that allows the state Legislature to pass a budget by a simple majority vote. Previously, a two-thirds majority in each chamber was required to move the budget to the governor's desk. According to a report by the California Legislative Analyst's Office (LAO), the state Legislature has met the constitutional June 15 budget deadline only five times since 1980.

But just in case the Legislature thought about budget gridlock, they would be forced to work for free and eat and sleep on their own dime each day the budget is not passed beyond June 15. Opponents of the proposal worried that the Legislature would be able to increase taxes by a simple majority as part of the budget process in violation of the super-majority requirement on increasing state taxes.[3] The LAO analysis also said the "measure's constitutional provisions do not specifically address the legislative vote requirement for increasing state tax revenues, but the measure states that its intent is not to change the existing two-thirds vote requirement regarding state taxes." A proposition at the next election could fix any ambiguity.

Speaking of the super-majority vote on state taxes, California voters also approved Proposition 26, which may take care of the ambiguities in Proposition 25. This measure also amends the California Constitution. Before approval of the amendment, Article XIII A of the California Constitution required that changes in state taxes for increasing revenue collected, whether by increased rates or changes in the methods of computation, must be approved by at least a two-thirds majority in each house. That section now requires at least a two-thirds vote if a change in statute requires any taxpayer to pay a higher tax.

The amendment also revised the definition of "tax" to include any levy, charge, or exaction of any kind, with several exceptions. Sponsors of the amendment believed that the California Legislature was circumventing the restriction by imposing new fees or increasing existing fees.

Finally, California voters upheld relatively new laws (Proposition 24) that allow corporations to carry back net operating losses for two years, to elect apportioning income to California, if a multistate corporation, on the traditional three-factor formula (property, payroll, and sales) or the single sales factor, and to share unused tax credits with members of a unitary group. According to an LAO report, overturning these tax incentives would have increased revenue by $1.3 billion a year beginning in 2012-13. Most of the additional revenue would have been used for schools and community colleges and the rest for any general government purpose.

CO Nixes Tax Reductions, Borrowing Restrictions

Colorado citizens voted on three measures affecting school funding, income taxes and other taxes, and state and local borrowing. Colorado voters turned down two constitutional amendments dealing with school funding and borrowing and an initiative to reduce income taxes and motor vehicle taxes.

Colorado pays for public education through local school district property taxes and state aid. A proposed constitutional amendment (Amendment 60) would have required school districts to cut in half their 2011 property tax rates by 2020 and would have required the state to make up the loss in revenue. The measure would also have

1 Ballotpedia, "2010 ballot measure election results," Nov. 9, 2010, at http://ballotpedia.org/wiki/index.php/2010_ballot_measure_election_results.

2 Tami Luhby, "Voters split on tax initiatives," CNNMoney.com, Nov. 3, 2010, at http://money.cnn.com/2010/11/02/news/economy/taxes_on_ballot/index.htm.

3 Pamela M. Prah, California's Proposition 25 would have "majority rule" on budgets, Stateline, Aug. 6, 2010, at http://www.stateline.org/live/details/story?contentId=503753

terminated any voter-approved property tax increases 10 years after approval and allowed people who own property in a jurisdiction to vote on property tax measures even if they lived elsewhere. Another significant provision included imposing property taxes on certain enterprise entities, such as hospitals, universities, and utilities. The upside for taxpayers and downside for local governments is that local governments would have to lower tax rates to offset the revenue from the newly taxed entities. Passage of the proposal was expected to lower property tax collections by $1.87 billion.[4] Colorado voters rejected the constitutional amendment by a 3-1 margin.

The other constitutional amendment (Amendment 61) would have prohibited the state from borrowing and limited the ability of local governments to incur debt. The measure would have capped the amount local governments could borrow to 10 percent of the assessed value of real property. Current law allows a debt limit of 20 percent of the assessed value of all property.[5] This measure also failed by about a 3-1 margin.

Proposition 101 would have cut the individual income tax rate from 4.63 percent to 4.5 percent immediately and reduced it to 3.5 percent over a 10-year period. The measure would also have reduced automobile sales taxes and registration fees. Finally, the measure would have eliminated taxes on telephones, except the 9-1-1 fee, pagers, and cable services. The estimated revenue reduction was $1.7 billion to the state and $677 million to local governments.[6] Voters overwhelmingly rejected the proposal by a 32 percent to 68 percent vote.

Business and labor organizations joined in opposing the measures and spent a combined $6.8 million to get their message out.

MA Voters Shed Puritan Heritage

The Massachusetts Legislature recently extended the sales and use tax to the purchase of beer, wine, and liquor in addition to excise taxes on alcoholic beverages. According to one analysis, the sales tax was extended to booze as a political payback to the liquor store interests and grocery store interests who provided financial support to both proponents and opponents of an initiative in 2006 that would have allowed the sale of wine in grocery stores.[7] Apparently these duplicitous tactics did not appeal to policymakers who put the additional tax on alcoholic beverages.

Question 1 was an initiative to repeal the new taxes on alcoholic beverages. It does not take a political wizard to figure out the pros and cons of the initiative: regressive tax, double taxation, and hurts businesses, especially establishments on the border with other states, versus other states impose sales tax on intoxicating spirits and repeal will hurt state programs.

The same analysis predicted that because the Massachusetts' Puritan heritage is alive and well, the new "sin" taxes would likely be upheld by a large margin. Some Puritans must have stayed home, because the proposal to do away with the sales tax on alcoholic beverages won by four percentage points.[8]

Question 3 would have reduced the state sales tax from 6.25 percent to 3 percent. The proposal provided that if the 3 percent rate would not produce enough revenues to satisfy any lawful pledge of sales and use tax revenues in connection with any bond, note, or other contractual obligation, then the rates would instead be reduced to the lowest level allowed by law. The reduction would have cost the state $2.5 billion annually. The measure failed by a 43 percent to 57 percent margin.

WA Turns Down Income Tax on Wealthy

Washington voters took on three tax initiatives on election day, along with six other ballot measures. The high-profile proposal (Initiative-1098) would have imposed an income tax on individuals making more than $200,000 a year and on married couples making more than $400,000 a year. The tax rate on individuals would have been 5 percent on the excess of taxable income over $200,000 ($400,000 for married taxpayers) and 9 percent on the excess over $500,000 ($1 million for married taxpayers). Taxable income would have included federal adjusted gross income less income from federal obligations.

Revenue from the new tax, estimated at $11.2 billion over the

4 David Harrison, "In Colorado, concern over anti-tax measures", Stateline at http://www.stateline.org/live/details/story?contentId=486326.
5 Ibid.
6 Ibid.

7 Massachusetts Election 2010, "Ballot Questions for 2010 Massachusetts State Election: Arguments For and Against," http://massachusetts-election-2010.com/2887/ballot-questions-for-2010-mass-elections-announced/.
8 I thought the Puritan heritage argument a bit silly, but I sent a text message to my son, who lives in Boston, asking if Massachusetts was still Puritan. His response: "Only when it comes to buying booze."

next five years, would have been used to fund health care and education, reduce the state property tax by 20 percent, and increase the tax credit for taxes paid under the business and occupation license tax (a gross receipts tax on businesses).[9] The higher credit was designed to eliminate the B & O tax on many small businesses.

Washington is one of seven states that does not impose an income tax on individuals; the others are Alaska, Florida, Nevada, South Dakota, Texas, and Wyoming. New Hampshire imposes a tax on interest and dividend income. In 1932, Washington voters approved an initiative to impose an income tax, but the initiative was later overturned on a legal challenge.[10]

The initiative was supported mostly by labor unions and opposed mostly by businesses, including Microsoft Corporation and Amazon.com Inc. However, Bill Gates, the founder of Microsoft, and his father supported the new tax. Supporters and opponents of the initiative each spent something over $6 million to get their message out.[11] They also trotted out the usual arguments to make their case. Supporters contended that Washington relies too heavily on sales taxes, which tax a higher share of income of low-income people, while opponents asserted the tax would hurt the state's business climate.

Whether voters bought the opponents arguments or were worried about income tax creep, they rejected the new tax by almost 2-1. Washington residents seem to be as skeptical of an income tax as Montana residents are of a sales tax.

Washington voters also overturned the extension of the sales tax on candy and bottled water and a 2-cent fee on carbonated beverages (Initiative 1107). An odd feature of the now former tax on candy was that candy, according to the statutory definition, did not include a preparation containing flour. The rationale, I suppose, is food is exempt under the Washington sales tax and flour is a food. Under the definition, a Snickers bar was taxed, but Twix was not. A Snickers bar has the same amount of protein as some of the cold cereals I eat.

Voters overwhelmingly rejected the new excise taxes by a 38.5 percent to 61.5 percent vote. Repeal of the taxes will reduce state revenue by about $353 million and local revenue by about $83 million over five years.[12]

Washington voters also restored a statutory requirement (Initiative-1053) that tax increases must be approved by at least a two-thirds majority in each house of the Legislature. The state Legislature had suspended that requirement, established by initiative in 2007, in order to balance the budget with the now repealed sales tax increases. Tax increases may also be referred to the electorate for approval. Nearly two-thirds of the voters approved the super-majority requirement.

What Do Voters Want?

Although the results of the ballot measures in these few states do not necessarily reflect voter sentiment nationwide, they do present some interesting perspectives.

Voters in Colorado, Massachusetts, and Washington were unwilling to significantly restructure their state tax systems. Colorado voters rejected a proposal to make a major overhaul of school funding by reducing local school district taxes and a proposal that would have reduced state income taxes by a lot, as well as reducing or eliminating a variety of other taxes. Likewise, Massachusetts voters were not keen on reducing the state sales tax significantly. Conversely, Washington voters didn't think it a good idea to impose an income tax on certain of its residents.

On the other hand, Massachusetts and Washington voters overturned recent extensions of existing sales taxes on certain products. Maybe voters were not thrilled about new taxes during difficult economic times, or maybe they just didn't want to be bothered by "nickle-and-dime taxes," even to balance the budget. Washington voters may also have been upset about the state Legislature's suspension of the super-majority vote to increase taxes.

It would have been interesting to see how Colorado voters would have responded to the reduction or elimination of other taxes had they not been tied to the income tax reduction. Would they have sustained the long-established taxes or thrown them out?

California continues to baffle. On the one hand, voters made it easier for the Legislature to pass a budget, with some negative incentives tossed in for not doing so. Yet they made it more difficult to raise revenue to help balance the budget.

9 Luhby, CNNMoney.com, op. cit.

10 Curt Woodward, "Wash. state to decide 3 tax initiatives," Associated Press, Nov. 2, 2010, in Yahoo!Finance at http://finance.yahoo.com/news/Wash-state-voters-to-decide-3-apf-732469002.html?x=0&.v=1&.pf=family-home&mod=pf-family-home.

11 Ibid.

12 Luhby, CNNMoney.com, op. cit.

All interim committee meetings are held in the Capitol in Helena unless otherwise noted.

December 2010

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6 Rules Training, 8:30 am, Rm 317 Joint Rules Committee Meeting, 9:30 am, Rm 317 Committee Chair Training, 1:30 pm, Rm 172	7 Informational Meeting with Executive Agencies on Appropriations Process, 10 am, Rm 137	8	9 Legislative Consumer Committee, 10 am, Rm 422	10	11
12	13	14	15	16 Legislative Audit Committee, time & place TBA (may be rescheduled)	17 Environmental Quality Council, 1 p.m., Rm 172	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

The 62nd Session of the Montana Legislature will convene at noon, Monday, January 3, 2011, at the State Capitol in Helena.

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